



August 16, 2011

ACRB MEMBERS

Joy Morrissey

Chair

Maceo C. Williams, Sr.

Vice Chair

Alan Morris

Member

Pamala Atiniece

Member

Paul Bartels

Member

Charis Johnson

Member

Cristina Beamud

Member

MAYOR OF ATLANTA

Kasim Reed

ATLANTA CITY COUNCIL

Cesar C. Mitchell

Member

Carla Smith

Member

Kwanza Hall

Member

Ivory Lee Young, Jr.

Member

Cleta Winslow

Member

Natalyn Mosby Archibong

Member

Alexander Wan

Member

Howard Shook

Member

Yolanda Adrean

Member

Felicia A. Moore

Member

Clarence T. Martin

Member

Keisha Lance Bottoms

Member

Joyce Sheperd

Member

Michael Julian Bond

Member

Aaron Watson

Member

H. Lamar Willis

Member

Chief George Turner
Atlanta Police Department
226 Peachtree Street, S.W.
Atlanta, Georgia 30303

RE: Complaint of Shequita Walker, #11-21

Dear Chief Turner:

The Atlanta Citizen Review Board ("ACRB") completed its investigation and adjudication of the complaint that was filed by Shequita Walker alleging that Officer Kenneth Thomas falsely arrested her and subjected her to excessive force on April 21, 2011.

Ms. Walker stated that she was seated in a chair in a vacant lot near 463 Boulevard, N.E. with three other individuals when she saw Officer Thomas. Officer Thomas told her and the others to leave and she asked him why they had to leave, as she has been at the same location many times in the past and interacted with members of the Atlanta Police Department without any trouble. She said she was aware of her rights and she was going to call a supervisor. She said that Officer Thomas grabbed her left wrist and twisted her arm and this caused her to fall to the ground and she could not get back up due to a pre-existing condition that affects her shoulder. Ms. Walker indicated that another officer assisted Officer Thomas to lift her to her feet and she was moved to a police car and relocated to a gas station. An ambulance responded and she was transported to the hospital. A crowd gathered when she was arrested and she reported that some bystanders took pictures of the arrest.

William Carter witnessed the incident and was interviewed. He explained he observed Ms. Walker sitting in a chair in the vacant lot and he left to use the restroom. When he returned, he heard sirens and he saw Ms. Walker sitting in the rear of an Atlanta Police car. He provided a photograph that showed Officer Thomas attempting to handcuff Ms. Walker as she lay on the ground.

Chucks Nnyagwu was an ice cream truck driver who witnessed the incident. He observed Ms. Walker sitting in a chair in the vacant lot and he heard Ms. Walker exchange words with the police officer. He was clear that Walker was in the vacant lot when Officer Thomas approached. He saw her grab Ms. Walker's arm and try to handcuff her. Ms. Walker fell to the ground and another officer came and helped to get Ms. Walker on her feet and into a patrol car. He could not say what caused Ms. Walker to fall.

Continue on...

Ms. Queen Walker described that Shequita Walker was sitting in a chair in the vacant lot and observed Officer Thomas approach. The officer told her and the others to move and when Shequita questioned the officer, she was arrested.

Medical records were obtained and they indicate that Ms. Walker had a complaint of pain in her left shoulder. The diagnosis was strained/sprained muscle. She was released into AOD custody.

The dispatch tapes indicate that an unidentified male called 911 and indicated that there were several black males gathered near the intersection of Boulevard and Rankin who were selling drugs. He appeared upset because he claimed that he had made a call 30 minutes earlier and did not see a police response. Officer Thomas responded to the radio call of 9 black males in white t shirts and blue jeans selling drugs at the location. Officer Thomas is heard asking if the complainant wanted to meet the officer and dispatch responded, "Negative." The officer responded by saying '12 and 8', which indicates that the person were gone. Soon after, he is heard requesting additional units for crowd control. Loud screaming and yelling can be heard in the background.

The photographs produced by the bystanders show Ms. Walker on her knees as Officer Thomas has one of her arms cuffed. The video produced shows Officer Thomas and Sergeant Patton acting professionally and trying to assist Ms. Walker to a seated position on the curb. Several people appear to surround the scene and bystanders can be heard making disparaging comments about the officers and their treatment of Ms. Walker. No evidence of unprofessional behavior is observed in the video.

The police reports were also reviewed. The first report was completed on April 21, 2011. He (Officer Thomas) claims to have observed a group of people blocking the sidewalk and he advised them to clear the location. Some left, but Ms. Walker began to yell and did not leave. He claimed that Ms. Walker caused more people to assemble and he grabbed her left arm and placed her in custody. She fell to her knees and refused to stand because her shoulder was hurt.

On April 22, 2011, Officer Thomas submitted an amended report and added that he responded to a call of people outside possibly selling drugs. The second report says they were on the sidewalk. He added that Ms. Walker used the word, "shit," and more people assembled and he began to fear for his safety. On April 30th, the final version was submitted and he added that she was charged with disorderly conduct because her actions caused the crowd to assemble which led him to be in fear of his life.

Ms. Walker was charged with City Ordinance Sec. 106.81.1 which makes it unlawful to act in a violent or tumultuous manner toward another whereby any person is placed in fear of the safety of such person's life, limb or health. The case was dismissed for evidentiary reasons because Officer Thomas wrote the charge on the citation and described that Ms. Walker, "became loud and boisterous, when instructed by officer to clear the sidewalk after receiving a call that there was a group in the area possibly selling drugs." He did not indicate on the citation that he was in fear of his life or safety.

Officer Thomas was interviewed and described the radio dispatch call as a group of males and females selling narcotics near Boulevard and Rankin. He saw a large number of persons blocking the sidewalk and asked them to move on. He said he gave this order in hopes that the caller would see that he was in the area attempting to address the caller's complaint. Ms. Walker became aggressive and yelled and asked why they had to leave. Officer Thomas claimed that Ms. Walker yelled and used profanity towards him even after he warned her to stop. According to Officer Thomas, Ms. Walker continued with her behavior and he took her left wrist and used a *come along hold* to take her into custody. He said Ms. Walker dropped to the ground and complained about an injury and refused to stand. He described a large crowd and he began to fear for his safety. He was assisted by Sergeant Patton and they got her to her feet and placed her into a police car and relocated to a nearby parking lot.

Sergeant Patton said he was working part time at the Bedford Pines apartments when he responded to a 911 call about males dealing drugs. Sergeant Patton and Officer Thomas did not observe the men. They were about to leave when Officer Thomas said he was going to ask the people seated in the vacant lot to leave. He became distracted by a cell phone call and when he looked up, he observed Officer Thomas struggling with Ms. Walker. He was trying to handcuff her and she was on her knees on the ground and a crowd was gathering. There were people shouting accusations of police brutality, so Sergeant Patton requested more units. Ms. Walker was relocated to a nearby parking lot and an ambulance was called.

The Board considered the investigation and voted unanimously to recommend a finding of **Sustained to the allegation of False Arrest**. Ms. Walker was not obstructing the sidewalk or street when she was arrested. Her actions did not put the officer in fear of his life. An angry crowd did gather, but this was after she was placed under arrest. Thus, the arrest was not proper.

The Board then considered the allegation of excessive force. There was considerable discussion about whether any amount of force would be proper since the arrest itself was unlawful. This was seen as a violation of APD SOP 3010 which authorizes officer to use only that force which is reasonable and necessary in order to accomplish lawful objectives. However, Board ultimately voted (3-2) to **Not Sustain the allegation of Excessive Force** since the force used would have been proper if the arrest was proper. The Board recommends that officers be more thoroughly trained on the law governing Disorderly Conduct arrests.

The complainant in this matter also voiced concerns about Officer Thomas' history of arrests. She believes that Officer Thomas is intolerant and quick to arrest community members if he is challenged. In order to test this theory, the Board obtained a list of all arrests made by Officer Thomas between January 1, 2011 and June 10, 2011. This data was compared to similarly situated officers; that is officers that work the same shift and location as Officer Thomas. The results appear below:

- **Officer Kenneth Thomas, Zone 5, Arrests from the period of January 1, 2011 to June 10, 2011**
38 total arrests, 27 arrests were for Disorderly Conduct or related offenses.
- **Officer Jamaine Chester, Zone 5, Arrests from the period of January 1, 2011 to June 10, 2011**
21 total arrests, 8 arrests were for Disorderly Conduct or related offenses.

- **Officer Vandy Mack, Zone 5, Arrests from the period of January 1, 2011 to June 10, 2011**

3 total arrests, 1 arrest was for Disorderly Conduct or related offenses.

This result seems to support the notion that Officer Thomas is more likely to arrest people for disorderly conduct than other officers. Disorderly conduct involves a high level of officer discretion. It can be helpful to conduct an analysis of disorderly conduct arrests in an attempt to detect any patterns that could suggest misuse of discretion. There is a higher likelihood of misuse of discretion *(for example, making an arrest as retribution of citizen Backtalk or disrespect of the police)* in cases in which the arrested person was fighting another person or otherwise involved with other non-police victims.

The Board further considered Officer Thomas' disciplinary history. He has been employed since 2007. He has had seven (7) OPS investigations since 2009; two (2) of them are currently open. The open cases involve allegations of excessive force *(one of these two involve this current complainant)*. Two of the seven cases were sustained for conformance to directives and failure to appear in court. The Board applied the disciplinary grid and agreed to recommend that Officer Thomas receive a three (3) day suspension and that he be trained to ensure that he understands the laws of arrest with regard to these types of offenses.

Please let me know if you have any questions or concerns or if you would like to have a copy of the full investigation. The ordinance requires that the Chief respond in writing regarding which recommendations are accepted, rejected, or will be implemented with modifications within thirty (30) days of the submission of a recommendation for action by the Board to the Chief. See Sec. 2-2211(O) of Ordinance 07-0-0141.

Sincerely,



Joy Morrissey,
Board Chair

cc: Mayor Kasim Reed
Council President Ceasar Mitchell
Members of Atlanta City Council
ACRB Members